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FISCAL IMPACT STATEMENT

LS 6811
BILL NUMBER: SB 439

NOTE PREPARED: Jan 27, 2015
BILL AMENDED:

SUBJECT: Controlled Substances.

FIRST AUTHOR: Sen. Hershman
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
X **FEDERAL**

IMPACT: State

Summary of Legislation: This bill prohibits the Office of Medicaid Policy and Planning (OMPP) from reimbursing under Medicaid for Subutex and Suboxone if the drug was prescribed for the treatment of pain management, and places limitations for these drugs when prescribed for Medicaid recipients for the treatment of substance abuse.

The bill requires the OMPP to compare Medicaid enrollment with the Indiana Scheduled Prescription Electronic Collection and Tracking Program (INSPECT) to identify Medicaid recipients who filled controlled substance prescriptions without using Medicaid.

The bill also requires the certification of opioid treatment providers, and sets forth requirements for these providers. It establishes the Opioid Treatment Provider Fund for purposes of administering opioid treatment provider certification.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Summary* - The bill requires the Division of Mental Health and Addiction (DMHA) to establish and administer a new certification program for opioid treatment providers. (DMHA currently certifies opioid treatment programs.) Administrative cost for personal services associated with this program are estimated at $157,960, and should be cost-neutral since the bill provides that the DMHA costs are to be recovered by means of a fee to be determined by the DMHA.

Administrative costs associated with changes to prior authorization requirements within the Medicaid program and the promulgation of rules for the certification of opioid treatment providers by DMHA should

be within the current levels of resources available to the Family and Social Services Administration.

Additional costs of the Medicaid prescription drug benefit as a result of removing prior authorization from Suboxone for one month, expansion of opioid treatment options, and requiring provider certification for Suboxone treatment periods in excess of six months are indeterminate at this time.

The prohibition on Medicaid reimbursement for Subutex and Suboxone for pain should have no fiscal impact. (FSSA reported that the brand Subutex is no longer on the market and that it is already illegal to prescribe Suboxone for pain.)

The Professional Licensing Agency (PLA)/INSPECT reported that the cost of the annual data match required between the Medicaid enrollment system and the INSPECT program should be accomplished within the current level of resources available to the agencies.

Additional Information:

Prior Authorization (PA) Provisions: The bill provides that an initial prescription for Suboxone (buprenorphine/naloxone) is not subject to PA and should be treated as a mental health drug. [FSSA reports that two other brands of buprenorphine/naloxone are included in the Medicaid pharmacy benefit - Bunavail and Zubsolv.] The OMPP may require PA for five subsequent prescriptions of Suboxone for the treatment of substance abuse. After six months, Medicaid reimbursement would only be available if the prescriber is treating within a certified opioid treatment program (OTP) or is a certified treatment provider. Currently, Medicaid requires PA for buprenorphine and buprenorphine/naloxone. FSSA reported that since Suboxone is addictive and contains opiates, the drug has street value and may be subject to diversion or misuse.

Certified Opioid Treatment Providers: The bill would require the Division of Mental Health and Addiction to establish and administer a certification program for opioid treatment providers. Current law provides for the certification of opioid treatment *programs*. Indiana currently has 245 physicians and 54 treatment centers federally approved to prescribe Suboxone. The DMHA would have administrative and regulatory oversight responsibility for providers that apply for certification. It is not known how many of the 245 Suboxone prescribers would apply for and meet the certification standards specified in the bill or how many have affiliations with CMHCs or can provide the resources necessary to meet the certification standards. If it is assumed that all 22 CMHCs certify their qualified providers, DMHA estimated that an expansion in the certification program would require an additional 2.5 full-time equivalents with a personal services cost of approximately $157,960. The cost estimate does not include equipment, supplies, or office space associated with the additional FTEs. Administrative cost for this program should be cost-neutral to DMHA since the bill provides for the costs of administering the regulation and certification of opioid treatment providers to be recovered by a fee to be determined by the DMHA. (Last year, the 13 certified opioid treatment programs were billed $26 per person for DMHA administration costs.) The ultimate fiscal impact of this provision would depend on the number of providers that would choose to apply to be certified and how the providers' fees are structured to recover the DMHA administrative costs. These costs could be transferred to other funding streams.

Currently, Suboxone may be dispensed by private physicians for addiction treatment under a waiver granted by the federal Substance Abuse and Mental Health Services Administration (SAMHSA). The provider must complete required training and meet all U.S. Drug Enforcement Administration guidelines. These providers are limited to 100 patients prescribed Suboxone for addiction treatment, and the physicians may write

prescriptions for up to 30 days. According to the SAMHSA website, Indiana currently has 245 physicians and 54 treatment centers approved to prescribe Suboxone. It is not known at this time how many of these physicians are affiliated with CMHCs or other mental health program providers. Under provisions of the bill, these prescribers would be allowed to prescribe Suboxone for up to 6 months. After 6 months, clients would be required to receive services from a certified program or provider in order to continue to receive this drug. A requirement for certification of suboxone treatment providers may have a limited impact on the total number of Medicaid-reimbursed prescriptions for Suboxone depending on the number of federally qualified Suboxone prescribers that prescribe it in excess of 6 months and that would not apply for certification. FSSA reported that the average monthly Medicaid reimbursement for Suboxone is $210. The total number of Medicaid prescriptions and the associated reimbursement for the drug is not known at this time.

A Medicaid expansion under the Affordable Care Act (ACA), would provide for broader coverage for the population involved in substance abuse (noncaretaker adults), but would be expected to cost the state less since the ACA provides for higher rates of federal financial participation - 100% for the first six quarters and 95% for the last two quarters of the upcoming budget biennium.

FSSA reported that Suboxone dispensed at an OTP is treated like methadone. A client is required to attend daily for dosing until the physician and treatment team determine that take-home medications should be approved. Eligibility for take-home medications is based on clean drug screens and compliance with other treatment requirements.

Of the 13 existing certified Opioid Treatment Programs, 10 are not enrolled Medicaid providers and do not bill Medicaid. Clients in OTPs were reported to pay $70 to $300 per week for Suboxone. The three Medicaid enrolled programs are community mental health centers (CMHC). DMHA reported that the CMHCs do not currently bill Medicaid for OTP services, instead using federal block grant monies to provide treatment services to high-profile opioid drug abusers, such as pregnant women, IV drug abusers, and HIV-positive individuals.

Explanation of State Revenues: The bill establishes the nonreverting Opioid Provider Treatment Fund to be administered by the DMHA. The fund is to receive the fees intended to recover the administrative and regulatory expenses. The amount of revenue collected is intended to offset the expenses necessary to administer the program.

The bill also permits the imposition of a civil penalty not to exceed $10,000 for violations of this chapter or rules adopted under this chapter.

Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 33.5% for most current services. Current Medicaid medical services are matched by the effective federal match rate in Indiana at approximately 66.5%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%.

Under provisions of the ACA, the enhanced FMAP for the newly eligible population in HIP 2.0 will be:

(1) 100% for CY 2014, 2015, and 2016;
(2) 95% in CY 2017;
(3) 94% in CY 2018;
(4) 93% in CY 2019; and
(5) 90% in CY 2020 and thereafter.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Family and Social Services Administration, DMHA, PLA.

Local Agencies Affected:

Information Sources: FSSA, DMHA; Buprenorphine Physician and Treatment Program Locator at: http://buprenorphine.samhsa.gov/pls/bwns_locator/!provider_search.process_query?alternative=CHOICEG&one_state=IN#programs .

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